

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

UTL 00134

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/091,311

Filed

March 4, 2002

First Named Inventor

KAPLAN, Diego

Art Unit

2152

Examiner

TRUONG, Lan Dai T

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/George W. Luckhardt/

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

Signature

George W. Luckhardt

Typed or printed name

☒ attorney or agent of record. 50,519

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Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

July 31, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 1 forms are submitted.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|---|------------------------------------|
| Applicant(s): <b>KAPLAN, Diego</b>  | Group Art Unit: <b>2152</b>        |
| App No.: <b>10/091,311</b>  | Examiner: <b>TRUONG, Lan Dai T</b> |
| Filed: <b>March 04, 2002</b>  | Conf. No.: <b>8151</b>             |
| Title: <b>SYSTEM AND METHOD FOR<br/>OPTIMAL SHORT MESSAGE SERVICE<br/>(SMS) ENCODING IN A WIRELESS<br/>COMMUNICATION DEVICE</b> |                                    |

**Mail Stop AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action dated May 02, 2007, please consider the following pre-appeal brief request for review. In the Final Office action, the Examiner rejected pending claims 11-30. More specifically, the Examiner rejected:

claims 11-17 as being unpatentable over Lee (US 6,590,887) in view of Moskowitz (US 5,249,220),

claim 18 as being unpatentable over Lee in view of Moskowitz further in view of Wolf (US 5,844,922),

claims 19-21, 23-24 and 28-30 as being unpatentable over Kim (US 2001/0049289) in view of Moskowitz,

claims 26-27 as being unpatentable over Kim in view of Moskowitz further in view of King (U.S. 5,859,945),

claim 22 as being unpatentable over Kim in view of Moskowitz further in view of Murray (U.S. 6,539,118), and

claim 25 as being unpatentable over Kim in view of Moskowitz further in view of Wolf.

The applicant submits this Pre-Appeal Brief as the applicant believes the Examiner has committed a clear error in finding the claimed limitations are taught or suggested by the references.

**REMARKS****A. AS AMENDED, THE CLAIMS RECITE "SMS CHARACTER ENCODING REQUIREMENTS", "SMS CHARACTER ENCODING", AND "CHARACTER ENCODING FORMAT"**

In the Final Office Action, the Examiner responded to applicant's arguments by stating that applicant relies on features not recited in the rejected claims. More specifically, the Examiner states on Page 2-3 of the Final Office Action dated May 2, 2007 in items 5, 6, and 7:

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., ... responsive to SMS message character encoding requirements.. ) are not recited in the rejected claim(s). . .

6. In response to applicant's argument that the Mathai fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., character encoding.. ) are not recited in the rejected claim(s). . .

7. In response to applicant's arguments that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., selecting the SMS character encoding format based on a wireless device resource requirement of the encoded SMS message.. ) are not recited in the rejected claim(s).

Applicant respectfully submits that "SMS message character encoding requirements" is recited in claim 11 at line 6. Claim 11 was amended to recite this feature in the Response dated February 07, 2007. (See Page 2, AMENDMENT AND RESPONSE TO OFFICE ACTION submitted 02/07/2007). Applicant respectfully submits that "character encoding" is recited in following locations in the claims: claim 11 at line 6-7, line 8 and line 10; claim 12, line 2, claim 13, line 2; claim 14, line 1; claim 18, line 1; claim 19, lines 3 and 5; claim 20 line 2; claim 22, line 1, claim 23, line 2, claim 25, lines 1 and 2; claim 28, lines 1, 3, and 4; claim 29, lines 1, 2, 5, and 7; and at claim 30, line 1. Claims 11-14, 18-20, 22-23, 25, and 28-30 were amended to recite this feature in the Response dated February 07, 2007. (See Pages 2-5, AMENDMENT AND RESPONSE TO OFFICE ACTION submitted 02/07/2007).

**B. LEE AND MOSKOWITZ DO NOT TEACH OR SUGGEST SUPPLYING AN OPTIMIZING SIGNAL “PRIOR TO CHARACTER ENCODING OF THE SMS MESSAGES”**

The Examiner rejected claim 11 under 35 U.S.C. § 103(a) as unpatentable over Lee (US 6,590,887) in view of Moskowitz (US 5,249,220). Applicant respectfully submits that neither Lee, nor Moskowitz, nor a combination of the two, teaches or suggests every element of claim 11 and that claim 11 is allowable.

Claim 11 recites a system for Short Message Service (SMS) character encoding comprising “an optimizing subsystem with an input to accept an SMS message, an input to accept an evaluation control signal, and an output to supply an optimizing signal responsive to SMS message character encoding requirements prior to character encoding of the SMS message”. Applicant respectfully submits that Lee does not teach or suggest this feature. The encoder/decoder 16 in Lee is a PCS or CDMA chip for signal encoding before modulation and transmission and is not a character encoder. Moskowitz explicitly states that the “transmitter encodes the message that is to be sent to the receiver according to each format. The format which requires the fewest number of binary bits to represent the entire message is selected as the character encoding format” (Column 12, lines 3-7, emphasis added). Therefore, the message must be encoded prior to selecting the format resulting in the fewest bits and selection of the format is after encoding. Accordingly, Moskowitz does not teach or suggest selecting the format “prior to encoding the SMS message” as claimed.

Regarding claims 12-18, these claims depend from claim 11 which applicant submits are allowable. Accordingly, claims 12-18 are at least allowable for the reason that they depend from an allowable base claim.

**C. LEE, MOSKOWITZ, AND WOLF DO NOT TEACH OR SUGGEST SELECTION OF THE SMS CHARACTER ENCODING FORMAT PERFORMED “PRIOR TO CHARACTER ENCODING OF THE SMS MESSAGE”**

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Moskowitz (US 5,249,220), further in view of Wolf (US 5,844,922). Applicant respectfully submits that neither Lee, nor Moskowitz, nor Wolf, nor any combination of the three, teaches or suggests every element of claim 18. Claim 18 depends from claim 11 which recites that a selection of the SMS character encoding format is performed “prior to character encoding of the SMS message”. As discussed above with reference to claim 11, Lee does not discuss

character encoding and Moskowitz teaches to character encode the message before selecting a format. Wolf discusses convolutional encoders used for CDMA signal encoding. Wolf does not discuss character encoding for SMS messages.

**D. KIM AND MOSKOWITZ DO NOT TEACH OR SUGGEST SELECTION OF THE SMS CHARACTER ENCODING FORMAT PERFORMED "PRIOR TO CHARACTER ENCODING OF THE SMS MESSAGE"**

The Examiner rejected claims 19-21, 23-24, and 28-30 under 35 U.S.C. § 103(a) as unpatentable over Kim (2001/0049289) in view of Moskowitz. Applicant respectfully submits that neither Kim, nor Moskowitz, nor a combination of the two, teaches or suggests every element of any one of claims 19-21, 23-24 and 28-30 and that these claims are allowable.

Independent claim 19 recites a method of character encoding a SMS message comprising "prior to encoding the SMS message, selecting the SMS character encoding format based on a wireless device resource requirement of the encoded SMS message". Applicant respectfully submits Moskowitz does not teach or suggest this step. Moskowitz explicitly states that the "transmitter encodes the message that is to be sent to the receiver **according to each format**. The format which requires the fewest number of binary bits to represent the entire message is selected as the character encoding format" (Column 12 lines 3-7, emphasis added). Therefore, the message must be encoded prior to selecting the format resulting in the fewest bits. Kim discloses a system for encoding graphics in an SMS message. Kim does not discuss selecting as SMS character encoding format.

Independent claim 28 recites "a Short Message Service (SMS) character encoding system configured to generate an encoded SMS message by encoding a SMS message using a SMS character encoding format and, prior to encoding the SMS message, selecting the SMS character encoding format based on a resource requirement of the encoded SMS message". As discussed above, neither Moskowitz, nor Kim, nor a combination of the two, teaches or suggests selecting a SMS character encoding format prior to encoding an SMS message. Accordingly, applicant respectfully submits that the combination of references does not teach or suggest every element of claim 28 and that claim 28 is allowable.

Regarding claims 20-27, and 29-30 these claims depend from either claim 19 or claim 28 which applicant submits are allowable. Accordingly, claims 20-27 and 29-30 are at least allowable for the reason that they depend from an allowable base claim.

**E. CONCLUSION**

The applicant respectfully submits that the Examiner has made a clear error in finding that the limitation of the matching circuits to be connected to same antenna. For all the foregoing reasons, an allowance of claim 11-30 pending in the present application is respectfully requested.

Respectfully Submitted,

Dated: July 25, 2007

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